

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO**

DONALD A. BOULDEN,

Petitioner,

v.

Civ. No. 22-411 WJ/GJF

ATTORNEY GENERAL OF THE STATE
OF NEW MEXICO, et al.,

Respondents.

ORDER DENYING MOTION TO APPOINT COUNSEL

THIS MATTER is before the Court on Petitioner Donald Alan Boulden's Motion for Appointment of Counsel, filed May 31, 2022. (Doc. 3) (the "Motion"). Petitioner is a prisoner in the custody of the State of New Mexico Corrections Department who seeks a writ of habeas corpus pursuant to 28 U.S.C. § 2254 in a petition pending before this Court. (Doc. 1). In the Motion, he seeks the appointment of counsel to assist him in pursuing his claims. Having reviewed the docket, the relevant law, and the Motion, the Court concludes that the Motion is not well taken and shall be denied.

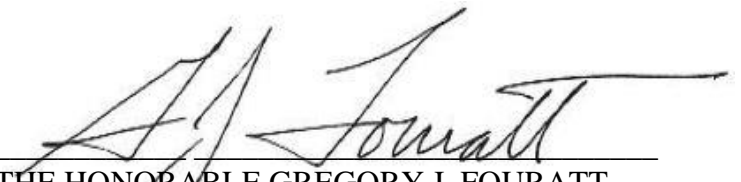
"There is no constitutional right to an attorney in state post-conviction proceedings. *Coleman v. Thompson*, 501 U.S. 722, 752 (1991); *Swazo v. Wyo. Dep't of Corrs. State Penitentiary Warden*, 23 F.3d 332, 333 (10th Cir. 1994). Whether to appoint counsel in a § 2254 proceeding is a matter within the court's discretion. *Swazo*, 23 F.3d at 333. In making this determination, the Court considers the merits of the petitioner's claims, the nature and complexity of the factual and legal issues, and the petitioner's ability to investigate the facts and to present his claims. *Hill v. SmithKline Beecham Corp.*, 393 F.3d 1111, 1115 (10th Cir. 2004).

Considering these factors in the context of the present case, the Court will not request a

local attorney to represent Plaintiff on a *pro bono* basis. The Court has reviewed the Petition, which is pending screening, and Petitioner's subsequently filed documents. At this stage of the proceedings, the Court will not pass on the merits of the Petition as it is pending preliminary review under Habeas Corpus Rule 4. The Court notes, however, that Petitioner's claims do not present particularly complex legal or factual issues and Petitioner appears to have an adequate understanding of the issues and to be representing his interests in a capable manner. The Court will therefore deny the Motion.

IT IS THEREFORE ORDERED that the Motion for Appointment of Counsel (**Doc. 3**) is **DENIED**.

SO ORDERED.



THE HONORABLE GREGORY J. FOURATT
UNITED STATES MAGISTRATE JUDGE